IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 24160 of 2004

Between:

Smt. B. Vijayalalitha, W/o. B. Kistappa,
R/o. Alarudinne (V), Devanakonda Mandal, Kurnool District.

..... PETITIONER

AND

1 The Joint Collector, Kurnool, Kurnool District.
2 The Revenue Divisional Officer, Adoni, Kurnool District.
3 The Mandal Revenue Officer, Devanakonda, Kurnool District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ, order, or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 2nd respondent here-in in suspending the dealership in R.C.M. 1208/2004, dated 06-12-2004 on an untenable and flimsy grounds with out considering the explanation, as illegal, improper, arbitrary and against the principles of natural Justice, besides being violative of Art. 14, 19 and 21 of Constitution of India, consequently direct the Respondents herein to reinstate the petitioner forthwith as Fair Price shop dealer of Alarudinne Village, Devanakonda Mandal, Kurnool District.

Counsel for the Petitioner: MR.R.RAMANJANEYULU

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court at the stage of admission made the following ORDER:

The petitioner was appointed as a fair price shop dealer of Alarudinne village, Kurnool District in the year 1997. The second respondent issued a show cause notice to the petitioner on 08-10-2004 directing her to explain as to why, action should not be taken against her, since it was alleged that she was distributing the essential commodities at higher rates. The petitioner submitted her explanation. Thereafter, the second respondent called for remarks from the third respondent and passed an order dated 06-12-2004, suspending the authorisation of the petitioner. Aggrieved thereby, the petitioner filed an appeal before the first respondent together with an application for stay. Her grievance is that the first respondent has not passed any orders so far, either in the appeal or in the stay petition.

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

The appeal as well as the application for stay filed by the petitioner are pending. The grievance of the petitioner is that even while the same are pending, respondents 2 and 3 are trying to make alternative arrangements. It is true that the appeal and application for stay were filed recently. Many a time, the delay in disposal of the application for stay would defeat the very purpose of filing of the appeal. In considering the feasibility of continuing a fair price shop dealer in the context of the suspension of the dealership, the broad aspects of the matter need to be taken into account.

In the instant case, the petitioner was issued a show cause notice on 08-10-2004.

Though two charges were framed, in effect the allegation against the petitioner is that she was selling the essential commodities at higher rates. The petitioner submitted her explanation denying the allegation. In such an event any finding can be recorded on the strength of specific instances. Once the second respondent has chosen to issue a show-cause notice, it was for him to consider the explanation and undertake enquiry, if necessary. Instead, he has chosen to call for remarks from the third respondent. To that extent he can be said to have abdicated his functions. Further, suspension after issuance of show cause notice can be only by way of substantive penalty and by its very nature it can be a for a specific period. The suspension of the petitioner is not restricted to any period. At any rate, the charges against the petitioner are not so serious so as to disable her from functioning as fair price shop dealer.

Hence, the writ petition is disposed of and the order of suspension dated 06-12-2004 passed by the second respondent shall remain stayed pending disposal of the appeal by the first respondent. No order as to costs.

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23-12-2004

Note: Issue C.C. by tomorrow

(B/o)

kdl

To

1 The Joint Collector, Kurnool, Kurnool District.
2 The Revenue Divisional Officer, Adoni, Kurnool District.
3 The Mandal Revenue Officer, Devanakonda, Kurnool District.

4 Two C.Cs. to the Government Pleader for Civil Supplies, High Court Buildings, A.P., Hyderabad, (OUT).

5 Two C.D. Copies.